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CONCORD, N.H.

Winfield J. Phillips, Commissioner
Bank Commission
State House
Concord, New Hampshire

Dear Mr. Phillips:

You have requested the opinion of this office as to whether it is illegal to add on "Advances to Borrowers" to conventional mortgage agreements.

RSA 384:13 provides that investments shall be carried in the records of the bank in such particular order and classified in such manner as the commissioner shall direct. It is apparent that you have the authority to direct the bank to classify "Advances to Borrowers" on the records of the bank in such manner as you desire.

Chapter 219, Laws of 1957, which we have discussed, provides that delinquent mortgage charges may be added to the principle and such additions shall have the same priority as the original indebtedness. It would appear that "Advances to Borrowers" on conventional mortgages are in the same capacity, and such advances are secured by the mortgage so long as they do not exceed the face value of said mortgage. See RSA 479:4 (supp) as amended by Laws of 1955, 64:1.

In view of the foregoing, if, in your judgment, you can ascertain the condition at a given bank by allowing "Advances to Borrowers" to be added to conventional mortgages then there appears to be no prohibition against it.

Sincerely,

William J. Douchman
Assistant Attorney General

WJD/lt